

MONEY FOR CLAIMANTS

Fire Claims Fund Not for Insurance Companies.

The test case brought into the Federal Court under the title of *W. F. MacLellan, United States Treasury Agent, vs. Yee Wo Chan*, to decide the ownership of fire claims money in the former's hands, was decided yesterday by Judge Dole in favor of the defendant, the opinion being rendered orally in favor of the defendant.

The decision was to the effect that the insurance companies which had interceded claims for a portion of the amount due Yee Wo Chan, had no right to enter claims, and the total amount, \$15,000 was awarded to the defendant.

Notice of appeal was made by Attorney A. A. Wilder for the insurance company. It is probable that all other cases of the same nature numbering thirty-one all told, and involving some \$50,000, will not be pressed until the appealed case is decided in the Ninth Circuit Court of Appeals.

The money came from the fund of \$1,000,000 appropriated by Congress for the relief of claimants against the Territorial government for property destroyed during the plague epidemic of 1899-1900. Treasury Agent MacLellan was sent from Washington to disburse the million dollars. He was stopped in this act by insurance companies who claimed their right to certain sums on the ground that they had been compelled to pay policies under circumstances which they believed to be illegal.

Judge Dole will file a written opinion later.

CASH PAYMENT WAS ONLY A DREAM

(From Wednesday's Advertiser.)

The case of H. E. Cooper vs. The Island Realty Company and Jos. A. Gilman dragged on in Judge Gear's court yesterday afternoon. Mr. Cooper being on the stand most of the time. Mr. Cooper outlined the transaction by which he turned over his Manoa Valley property to the Island Realty Company. In the initial stages of which he expected to receive \$50,000 cash as part payment, but found it only a dream.

Mr. Cooper stated that he had given an option on the property to J. F. Morgan, the auctioneer. One day Mr. Morgan came to him with a check for \$25,000. Mr. Chase, who organized the Island Realty Company and was its manager, came in at that time and said he was anxious to take over the property, and would pay cash. The proposition looked good to Mr. Cooper, the result being that Morgan and his \$25,000 check were withdrawn and Chase substituted. The papers were drawn up. Chase said he had organized the company. Then the day that Chase was to hand over \$50,000 as the agreed

YOU WILL NOT

be deceived. That there are cheats and frauds in plenty everybody knows; but it is seldom or never that any large business house is guilty of them, no matter what line of trade it follows. There can be no permanent success of any kind based on dishonesty or deception. There never was, and never will be. The men who try that are simply fools and soon come to grief, as they deserve. Now many persons are, nevertheless, afraid to buy certain advertised articles lest they be humbugged and deluded; especially are they slow to place confidence in published statements of the merits of medicines. The effective modern remedy known as **WAMPOLE'S PREPARATION** is as safe and genuine an article to purchase as flour, silk or cotton goods from the mills of manufacturers with a world-wide reputation. We could not afford to exaggerate its qualities or misrepresent it in the least; and it is not necessary. It is palatable as honey and contains the nutritive and curative properties of Pure Cod Liver Oil, extracted by us from fresh cod livers, combined with the Compound Syrup of Hypophosphites and the Extracts of Malt and Wild Cherry; and how valuable such a blending of these important medicinal agents must be to plain to everybody. It is beyond price in Insomnia, Anemia, Weakness and lack of Nervous Tone, Poor Digestion, Lung Troubles and Blood Impurities. Science can furnish nothing better—perhaps nothing so good. Dr. W. H. Duffe, of Canada, says: "I have used it in my practice and take pleasure in recommending it as a valuable tonic and reconstructive." It is a remedy that can afford to appeal to its record and represents the science and knowledge of bright and aggressive medical investigation. "One bottle convinces." At chemists.

price for the land in cash, the remainder to be secured by mortgage. Chase came to Mr. Cooper and said he was sorry but he couldn't pay cash. The matter was finally wound up by the proffer and acceptance of notes, interest to be paid on May 11 and November 11 of each year. This was paid up by Mr. Gilman until last May when only a part was paid. Mr. Gilman had claimed that the taxes should be paid by Mr. Cooper. This controversial point precipitated the civil suit now in progress.

PARKER SUES THE METROPOLITAN CO.

(From Wednesday's Advertiser.)

An assumpsit suit was filed yesterday by Col. Samuel Parker against the Metropolitan Meat Company to recover the sum of \$26,252.39, which the plaintiff claims is due him as the residue of funds of the partnership existing between himself and the late John P. Parker. The amount is alleged to be due for cattle and sheep delivered to the Metropolitan company between May 9 and June 18 of this year.

The Metropolitan Company, however, is not concerned in the matter except to the extent of who shall receive the money claimed. The company does not deny the existence of the claim. The suit is an outgrowth of the present Parker Ranch litigation in the Circuit Court.

COURT NOTE.

In the case of the Territory vs. Jack Morgan, seduction, the defendant is given twenty days from July 11 in which to file his bill of exceptions on appeal to the Supreme Court.

PLANS READY FOR HILO'S SEWER SYSTEM

Plans for Hilo's sewer system are completed and work will shortly begin to lay the mains. The system will be laid upon Front, Wadawene, Bridge, Shipman, Richardson and other streets in the lower portion of the town. The sum of \$10,000 is available for the work.

WOULD HELP WOODS ESCAPE

W. J. Glenn, formerly a sailor on the training ship Adams, was tried and convicted in the police court yesterday morning on a charge of attempting to assist Fred Woods, the notorious negro convict of Oahu prison to escape from that institution. Glenn was serving a sentence there and it was proven he had written a letter which Woods was to use in securing assistance from someone on a transport in order to leave the country after making a dash from the Makiki quarries. Glenn had six months tacked on to his present sentence for the latest escapade and Woods will be carefully looked after by the zealous guards of the prison.

Ant to Kill Weevil.

There now seems to be a reasonable probability that nature has placed in the hands of man an agency that will relieve the cotton growers of the Southern States of a great measure of their anxiety for the protection of crops against the ravages of the boll weevil. Mr. O. F. Cook, a botanist of the Agricultural Department, reports that he has found in Guatemala an ant that preys upon the pests of the cotton field. So sure is the Department of the inestimable value of this discovery that it has authorized Mr. Cook to command any needed assistance in money or men. It is not claimed for the ant that it exterminates the weevil, but in its native haunts it succeeds in limiting their numbers to a degree that slight, if any, damage to the growing cotton is effected. Less than a week ago the Agricultural Department took an absolutely hopeless view of its attempt to save the staple crop of the South from threatened ruin. It was reported that every expedient applied up to that time had failed utterly, and unless some remedy could be found every cotton growing section north of the Gulf of Mexico would be at the mercy of the weevil. The pecuniary loss already inflicted is estimated in the millions of dollars; hence the reported discovery by Professor Cook, even if results will not fully justify sanguine expectations, will be acclaimed as something like a providential dispensation. The Guatemalan ant, it seems, is a relief rather than a cure, but as it robs the weevil of its power of wholesale destruction, it will come as a blessing to the cotton grower. It is to be hoped, however, that it will not follow in the path of the English sparrow, which in some respects is a worse evil than the worm which it was brought here to exterminate.—New York Trade Review.

CHRONIC DIARRHOEA.—For several years during the summer months I have been subject to bowdleries of the bowels, which quickly ran into a very bad diarrhoea and this trouble was frequently accompanied with severe pain and cramps. I used to call on doctors for my trouble but it became so regular a summer affliction that in my search for relief, I became acquainted with Chamberlain's Colic, Cholera and Diarrhoea Remedy, which proved so effective and so prompt that I came to rely exclusively upon it, and when it was finally ascertained that this was the cause of my trouble, I was relieved of the disease and never suffered from it again. I have since used it in my practice and take pleasure in recommending it as a valuable tonic and reconstructive. It is a remedy that can afford to appeal to its record and represents the science and knowledge of bright and aggressive medical investigation. "One bottle convinces." At chemists.

WEEKLY DISCUSSION OF PROPOSED COUNTY ACT

An Address On the Subject by the Secretary of the Commission—Question of Hearing From the Public Discussed.

At its meeting last night the County Act Commission learned from a statement made by T. McCants Stewart that there are serious snags in the way of framing a county government act which will stand the test of the courts. The Commission decided before proceeding with the framing of the act to listen to the views of all citizens who may wish to attend their meetings with reference to the particular points which stand in the way of the framers of the act.

The meeting was attended by Chairman H. E. Cooper, F. W. Beckley, T. McCants Stewart, C. L. Crabbe, and E. M. Watson, and Secretary Avery.

Mr. Stewart's address was as follows: "There are several classes of citizens to be considered in framing a county act, namely: (1) Those who are opposed to county government on the ground, (a) that it is not wanted by the taxpayers, (b) that it will increase taxes, and (c) that the present centralized government is all we need for our small area and population; and (2) those who are opposed to county government on the grounds above stated, and on the further ground, that they do not believe in the capacity of the majority of our people to conduct an economical and efficient county government. (3) Those who, being diametrically opposed to the above described classes, favor a county government, similar to the most advanced systems of the States, covering schools, health and every other department usually found under local control. (4) Those who favor a simple form of county government to start with, one that the people can easily support and conduct, and which can be enlarged, as we grow in experience—holding that we should do like young married people, who start house-keeping in a small house, and add additions from time to time.

"It will be impossible to meet the views of these different classes, especially where it is contended: (1) that county government is not wanted by the taxpayers, and (2) that the people have not the capacity for it. It is a matter of regret that we have these latter objections facing us on the threshold of our duties. But as all the political parties of our territory have declared themselves in favor of county government, and as this commission was created by a unanimous vote of the legislature, we have to ignore these objections as to undesirability and incapacity, and go ahead with our work with the hope that these last named objections may be abandoned, and that the people who now urge them may help us to frame an acceptable county act, after it is passed by the legislature, may take a hand in the work of administering it honestly and efficiently.

"Between the two classes—one desiring an unlimited act, embracing every department usually under local control, and the other a simple act, not embracing, at the start, every department usually under local control, there must be compromise, if we are to proceed without congressional ratification. "The thoughtful address to this commission by Mr. Chairman Cooper has commanded wide and serious attention, because of the danger to county government, which seems to him to be in several provisions of the organic act. "There is a widespread feeling, that, in the light of Mr. Cooper's statement, and in view of the spirit of the decision of our Supreme Court—nullifying the county act of 1903, it is doubtful if under the organic act the people can elect county boards; and, further, that it is doubtful if the legislature can absolutely surrender territorial property to the counties. Other matters are also held to be of doubtful character in the relationship between county government and the organic act.

"Of course, we can meet and overcome these objections, if they be well founded, by drawing separate acts, and recommending that they be submitted to Congress for ratification. "But we cannot escape the fact, that the organic act is our constitution. All our laws must conform to it. The objection urged against a board of supervisors elected by the people is contained in Section 30 of the organic act, which provides that, 'the governor shall nominate, and by and with the advice and consent of the Senate of the Territory of Hawaii, appoint . . . members of the board of health, commissioners of public instruction, board of prison inspectors, board of registration and inspectors of election, and any other boards of a public character that may be created by law.'"

"I believe that this provision applies only to Territorial boards. There seems to be no other conclusion possible. If we read this provision in connection with the whole of Section 30 and Section 26, which latter section provides: 'The legislature may create counties and towns and city municipalities within the Territory of Hawaii and provide for the government thereof.'"

"But as there is always the other side in legal interpretation, our Supreme Court could hold the view that the government, under the organic act, must attempt all county boards. It is the view of such an opinion that the county act drawn by us would be null and void, as it would be in violation of the organic act, which would be a serious question, therefore, and we are to draw an act which would be

elective county board, when the chances are that it may go up against Section 30, and be wrecked.

"And therein lies the difficulty of our work. The demand for county government springs from a desire of the people to manage their own affairs through their own chosen representatives. If the strict construction possible to be given to Section 30 is sound, then this demand cannot be carried out without further Congressional legislation. We cannot on the principle of local control manage our schools, or the public health without a central board and a local board in each district; but they would have to be appointed by the Governor. So that the Governor, who is not elected by the people, and in a political sense is not responsible to them, would have in his hands the entire machinery of government just as he had, when Congress authorized the legislature to establish counties, towns, and cities and provide for their government, a provision inserted in the Organic Act, I claim, to enable the legislature to decentralize the government and to make it the kind of government referred to by Gov. Carter in these words, when he called the last special session of the legislature, namely: 'As the authority to call the Legislature rests with me, I would not feel myself true to Hawaii's best interests if I failed to take this responsibility. If Hawaii is ever to fit herself for a place in the union of sovereign States, we must show that we have a government here, not only of the people and for the people, but by the people.'"

"I have thought of several expedients for attempting to evade the appointment of our county boards by the Governor; but they are not sound in principle, and would be difficult to carry out in practice.

"For example, I thought that our act might provide that the people shall select the supervisors for the Governor to nominate; but the Governor would not be bound, and such a void provision might affect the whole act.

"But even if it did not, and the Governor should start the machinery by nominating the supervisors selected in each county, they could not appoint a school board, a road board, or any other board, because this power would lie with the Governor.

"I wish the commission could have the views of our citizens, legal and lay, upon this proposition; for upon its decision hangs the nature of the whole county act.

"Three courses are open to us, two of which we can follow at once, namely: (1) recommend that our legislature petition Congress to amend the Organic Act so as to remove the apparent limitations upon our right to establish county and municipal government with elective boards; (2) draw a county act providing for elective boards, and conform its provisions to the systems of our States and Territories, and provide that the same shall not go into effect until after its ratification by Congress; (3) draw a county act carrying in it the power of the Governor to nominate all boards. We can conduct such a system until Congress amends the Organic Act. Then the succeeding legislature can amend our county act, unless our people decide to maintain our county system permanently under appointment by the Governor.

"We shall have to decide before we get much further in our work what course we shall pursue, and we should invite opinions from every source upon these propositions.

"And this brings up an important factor in our work, namely, the co-operation of the Governor. This commission has adopted the plan of inviting suggestions and help from every quarter. Any citizen, no matter whom, can give us his views, and if they commend themselves to us, we will use them. If that be true of the citizen, it applies also to the Governor. Our work must be reported to the legislature through him, and conference with him in the course of our proceedings will have the effect of preventing any differences of opinion between us upon the final result of our work.

"Again I think we should consult with our Delegate to Congress, Prince Kuhio. He is in a position to advise us as to how far we should go in the matter of seeking congressional action; and we will be interested in his views upon the character of our act, whether it should be simple or comprehensive. "I desire it to be distinctly understood, that my views are not final. I have come to this work with a virgin mind. Since I drew the Long Municipal Act, over a year and a half ago, I have done no work of this kind, until I sat down to the preparation of this statement. Doubtless many views now held by me will either be modified or changed, as we discuss these matters from week to week, and are brought face to face with questions both of law and policy.

"Whatever act we draw, whether for congressional ratification or not, I favor having a simple one, and having it follow, as closely as possible, our present system of government. Our people are familiar with it, and their representatives can conduct it without having to learn it, except in parts.

"There should be five full-fledged counties, namely: Oahu, Maui, Kauai, and because of its size and widely scattered population, two on Hawaii. The present territorial government should contain within the general jurisdiction of the board of health, with a county board of health, which should be

provided for in a separate act.

"And I fully concur with our Chairman in the opinion that such matters as taxation, license, etc., should be dealt with in separate acts.

"The board of supervisors should be limited as to the rate of taxation; and should be required to spend annually a certain percentage of the revenues on roads, bridges and other public improvements; and they should be required to keep their expenses within their income, making it a penal offence to intentionally and wilfully appropriate more money than is known to be in the treasury, or estimated by the Tax Assessor and Collector to come into it during the year.

"This is not the time and place to enumerate the limitations and safeguards which we should put in our act. It is sufficient now to say that we should attempt to construct a system that can be run economically, and we must insure it against extravagance, waste and dishonesty.

"Excepting the supervisors, each county can get along with the same officials now on each island, their duties being as now required by law, subject to such modifications as may suggest themselves as necessary to fully carry out our county plan of government and to insure accountability. For example, the officials having public money in their custody should be compelled to make daily deposits in a bank, or banks designated by the supervisors, and to furnish the supervisors for publication weekly statements of receipts and expenditures.

"Salaries in some cases may be further reduced; and we should require all salaried county officials to give their time exclusively to the work of the county.

"The supervisors should have power to reduce the number of officials, or their salaries, but not to increase them without legislative sanction. Of course, no reduction should be allowed within a term of office.

"The introduction of county government will unfortunately bear hard upon the salaries of territorial officials. The legislature will be compelled to make material reductions in them, and in that way prevent the machinery of government from being oppressive upon the taxpayers.

"I do not think that there should be any excessive bonds provided for, or allowed. They should be reasonable, so as to allow the poor, but honest and intelligent man to take a hand in the government. There should, however, be penal provisions against wilful mistake, against bribery and embezzlement. Our act should stand for intelligent, efficient and honest administration of public affairs.

"Many citizens seem to have the idea, that this commission can frame a bill for towns and cities. I said to a leader of one of our political parties, who urged this matter upon me, that the joint resolution under which we are appointed, limits us to county government; that, if he wanted more than this, he should have exerted himself at the meeting of the legislature to have passed a resolution carrying a wider scope.

"If we succeed in framing a county act, which shall take its place permanently among the statutes of our Territory, we shall have done all that has been required of us; and it will be a long step towards learning the lesson which Governor Carter said at Hilo we need to learn so much, when he used these memorable words: 'The lesson we need to learn in Hawaii is that the government is the people, and that the people are the government. There has been a different conception, which considered the government as an institution separate and apart from the people. If we can get all the people to realize that the government's interest and the people's interests are identical, and that it is the purpose of my administration to make the will of the people the will of the government, we shall be satisfied.'"

Following his address Mr. Stewart moved the following resolution:

Resolved, That this commission request the citizens, hereinafter named, and any others willing so to do, to favor it with their views, orally or in writing, upon the questions below stated; and that the hearings thereof be commenced at the regular meeting of this body on Tuesday evening, July 19th, 1904, at 7:30 o'clock; namely:

1. Under the organic act, can a county board of supervisors be elected by the voters?
2. If the organic act prohibit election, shall a county act be drawn providing for the election of supervisors by the voters, and be submitted to Congress for ratification?
3. Shall a county act be drawn carrying the governor's right to appoint, and Congress be requested to amend the organic act so that the voters may elect county boards?
4. Shall we base our county system permanently on the right of the Governor to appoint all county boards?
5. Shall the county act provide for county control of education, health, and roads, bridges and wharves?

W. R. Castle, J. G. Pratt, J. J. Dunne, J. M. Poepeo, W. H. Smith, D. H. Case, J. D. Willard, F. J. Lowrey, A. V. Gear, Lorrin Thurston, and Harry Armitage; and the following gentlemen, who were elected District Attorneys of their respective Counties, namely: W. T. Rawlins, J. U. Smith, Guy F. Maydwell, John Richardson, and S. K. Kaseo.

Messrs. Watson and Beckley opposed the portion of the resolution specially naming persons to be invited to address the Commission, on the grounds that there were many persons not named in the resolution who are interested in County Government and might be offended if an invitation was extended to others and not to themselves. As finally amended and passed the names were left out and all citizens were generally invited, with the understanding that each member of the Commission could invite anyone he wished to address the Commission. The meeting then adjourned.

MISS KELLEY PASSES OUT

Efficient Clerk in the Secretary's Office Leaves.

Miss Kate Kelley, chief clerk in the office of the Secretary of the Territory, laid down her pen yesterday afternoon at the close of the day's business, and thereupon ended her long official career with the local government.

Acting Governor Atkinson addressed a letter to Miss Kelley in which he warmly thanked her for her past efforts, paying a high tribute to her clerical capacity and wished her success in whatever venture she undertook in the future.

Miss Kelley has been clerk in the same office for the past ten years, passing through the successive changes of government from the Provisional Government, Republic and lastly under the present form of Territorial government. She leaves for the Coast on the steamship China.

DISGUISED APANA CAUGHT GAMBLERS

(From Wednesday's Advertiser.)

Apana, the Chinese policeman, made a record for himself last night. He caught forty Chinese gambling in an upstairs room on Smith street. Although four doors and four watchmen barred his way a clever disguise gained him admittance and the jig was up. Apana, like other members of the raiding force at the police station, is now so well known that it is impossible for him to go anywhere, at night, in Chinatown undisguised without Chinese raising the cry of "cop." The Chinese have posted various men, whose business is to know by sight every known police officer and informer, to watch the entrance to gambling resorts and on the approach of the police raise the alarm in time.

Apana wore a native hat, a pair of black glasses, and a Chinese coat. Then he blacked his upper lip sufficiently to give the impression that he needed a shave badly, and started raiding. He passed four doors of the entrance to the Smith street resort and when in the gaming room watched the progress of the game for a moment or two before being recognized. Forty men were arrested and will be dealt with today by Judge Lindsay.

While station clerk McKinnon was making out bail receipts for the crowd, attorney C. C. Biting entered the station and announced that as the whole crowd were his clients he demanded that the police do not ill-treat them. Then he went outside again and made off on his horse.

DEATHS DOUBLED BIRTHS IN JUNE

Deaths reported for the month of June more than doubled the number of births, the former being recorded at the Board of Health offices as seventy and births at thirty-three. There were also fifty-seven marriages during the same month.

Statistics of the Health Board show that of the seventy deaths, forty-seven were males and twenty-three females. There were twenty-eight Hawaiians, seven Chinese, eleven Portuguese, thirteen Japanese, three from Great Britain, six Americans, two of other nationalities not recorded.

WEAKNESS

When you are weak, nervous, and all run down, everything seems to go wrong. Ayer's Sarsaparilla will build you up, make your nerves strong, and give you pure, rich blood. Here is what a nurse of large experience says about it.



Mrs. E. B. Chappell, Stawell, Victoria, sends us her photograph, and writes:

"I have been a nurse for thirty-five years, and I take great pleasure in recording my experience with Ayer's Sarsaparilla and Ayer's Pills. I have used these medicines in different parts of the world, both for myself and my patients. I have had great success with them, especially in cases of nervous prostration, impure blood, skin diseases, and weakening illnesses in general. I most heartily recommend these medicines to all sufferers from any of the above-named distressing complaints."

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